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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,179	12/18/2001	Paul Moroney	018926-003800US	7535

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EXAMINER
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POLTORAK, PIOTR

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/890,179

Applicant(s)

MORONEY, PAUL

Examiner

Peter Poltorak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The Amendment, and remarks therein, received on 5/13/2005 have been entered and carefully considered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

### ***Response to Amendment***

3. Applicant's arguments have been carefully considered but they were not found persuasive.
4. Claims 1-5, 9-20 have been rejected 35 U.S.C. 103(a) as being unpatentable over *Carswell et al.* (U.S. Patent No. 5365591) in view of *Atkinson et al.* (U.S. Patent No. 5892904). Applicant contests the combination of references and summarizes his arguments: "Thus, clearly, the changes mandated by the combination of Carswell and Atkinson are so extreme as to not make obvious Applicant's claimed invention as shown in claim 1" and provides an example that "it would require that a two processor system be implemented where *Atkinson* only contemplated a single processor system."
5. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of

- ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).
6. In this case, the examiner points out that although *Atkinson et al.* do not teach a two processor system, *Carswell et al.* (as presented in the previous Office Action) teaches a dual processor device (*link encryptor*), which is used in data exchange including encryption/decryption (*Fig. 1 and col. 2 lines 42-57*).
  7. *Atkinson et al.* warn that computer viruses "have long been a scourge of computer owners and operators because of the relative ease of contracting many viruses and the potentially devastating damage that viruses can cause" (*Atkinson et al., col. 1 lines 52-55*) and provide a certification or signing method as a solution. The certification or signing method ensures authenticity and integrity of data received over a computer network and consequently minimizes risk of contracting a computer virus (*Atkinson et al., col. 2 lines 34-52*).
  8. The link encryptor as taught by *Carswell et al.* receives data indiscriminately and as a result it is liable to virus infection. As a result, the notion that implementing *Atkinson et al.*'s invention in *Carswell et al.*'s invention is "so extreme as to not make obvious" is not understood. One of ordinary skill in the art at the time of applicant's invention would clearly have recognized the value of *Atkinson et al.*'s invention and would have been motivated to implement it in *Carswell et al.*'s invention to ensure the authenticity and integrity of received data (*Atkinson et al., Abstract*).
  9. As per claims 6-8 applicant challenges Official Notice stating that cable telephony neither was nor is a widely established technology. The argument is not understood.

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The examiner points out that the art (*Carswell et al.*) cited in the previous Office Action teach the use of cable telephony (a cable telephony adapter (the dual processor) coupled with a gateway controller (*Fig. 1, object 13*) and a user computer (*Fig. 1, object 15*)). *Carswell et al.*'s application for a patent was filed on November 15, 1994! The use of cable telephony is also discussed in many other patents with various filing dates, e.g. *Grau et al.* (U.S. Patent No. 5818906 filed on July 2, 1996, see col. 2 line 47- col. 3 line 8 for example), *Brown et al.* (U.S. Patent No. 6047066 filed on April 4, 2000, see col. 4 lines 1-17 for example), etc. For applicant's review, the examiner additionally attaches a few non-patent literature examples clearly indicating that the cable telephony was well known at the time of the applicant's invention, including an excellent reference (*Business Telecom Systems*) on various cable telephony technologies.

10. Claims 1-21 have been examined.

11. Objections to drawings and the specification (*the Abstract*) as well as 35 USC § 112 claim rejections have been withdrawn.

### ***Claim Rejections - 35 USC § 103***

12. Claims 1-5, 9-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Carswell et al.* (U.S. Patent No. 5365591) in view of *Atkinson et al.* (U.S. Patent No. 5892904).

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13. As per claim 1 *Carswell et al.* teaches a dual processor device (*link encryptor*, *Fig. 1 object 14*) which receives and decrypts a cipher message (*col. 2 lines 42-57*), a secure processor (*crypto processor*) which encrypts/decrypts messages (*col. 2 lines 48-54*) and a host processor (*red processor*) which processes unencrypted data (*col.3 line 21*).

*Carswell et al.* do not explicitly teach the authenticating of the encrypted message utilizing an authentication certificate.

*Atkinson et al.* teach authenticating the encrypted message utilizing an authentication certificate (*Atkinson et al.*, *col. 2 line 61- col. 3 line 4*). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to expend the encryption capability of a secure processor as taught by *Carswell et al.* by authenticating the encrypted message utilizing an authentication certificate as taught by *Atkinson et al.* One of ordinary skill in the art would have been motivated to perform such a modification in order to ensure the authenticity and integrity of the message (*Atkinson et al.*, *Abstract*).

14. As per claims 2 and 3 *Carswell et al.* teach a cable telephony adapter (the dual processor) coupled with a gateway controller (*Fig. 1, object 13*) and with a user computer (*Fig. 1, object 15*).

15. As per claim 4 *Carswell et al.* teach a second cable telephony adapter, a second gateway controller and a second user computer (*Fig. 1*).

16. The limitations of claims 9-10 are implicit; clear text from a host processor is encrypted by a secure processor, which is the only entity with encryption capability

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in *Carswell et al.*'s invention. Also, *Carswell et al.* teach a host processor coupled to a terminal (*Carswell et al.*, col. 2 lines 63-66, Fig. 2).

17. Claim 16 is implicit: *Carswell et al.* teach a host processor (*red processor*) handling plain text data (col. 2 line 41) and a crypto processor which converts the plain text data to cipher text data (col. 1 lines 52-54), and also teach a message flow from the cable telephony network to a user computer (*terminal*) through a dual processor device (*link encryptor*, Fig. 1) which decrypts the message and produces a plain text message (col. 2 lines 50-58).

18. *Atkinsons et al.* teach the limitations of claim 12 in col. 2 lines 61-67.

19. *Atkinson et al.* teach the limitations of claims 11-14 in col. 2 line 61-col. 3 line 2, col. 4 lines 42-46, Fig. 4 and col. 6 lines 44-52. The limitations of claims 11, 14 and 21 are implicit since a secure processor uses decryption and authentication keys.

20. Claims 15 and 18-19 are substantially equivalent to claims 1 and 9-10; therefore claims 15 and 18-19 are similarly rejected.

21. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Carswell et al.* (U.S. Patent No. 5365591) in view of *Atkinson et al.* (U.S. Patent No. 5892904) and in further view of *Official Notice*.

22. *Carswell et al.* teach a telephone network comprising a cable telephony adapter, a gateway controller and a user computer as discussed above.

*Carswell et al.* do not explicitly teach a provisioning server, a customer service representative center and a billing host coupled with the cable telephony network.

*Official Notice* is taken that it is old and well-known practice to couple a provisioning server, a billing host and a customer service representative center with a cable telephony network. One of ordinary skill in the art at the time of applicant's invention would couple the billing host to the cable telephony network to allow a billing system to bill cable telephony clients automatically, a customer service representative center to provide additional customer support and at the same time to lower customer support operating costs, and the provisioning server to enable various devices to utilize the telephone network.

### ***Conclusion***

The prior art made of record and not relied upon:

William Stallings, "Data and computer communications", 5th edition, 1997, ISBN: 0024154253, pg. 3 Fig. 1.1,

James Careless, "IP telephony: Is it time to take the plunge?"

<http://web.archive.org/web/19991009235601/http://www.cedmagazine.com/ced/9906/9906adn.htm>, pg. 1-4,

Looksmart, 1999 Ad

[http://www.findarticles.com/p/articles/mi\\_m0TPY/is\\_1999\\_July\\_5/ai\\_55119713](http://www.findarticles.com/p/articles/mi_m0TPY/is_1999_July_5/ai_55119713), pg. 1-3,

Networkcomputing, "Voice Over IP: The Battle Heats Up",

<http://www.networkcomputing.com/1005/1005f1.html>, pg. 1-3,

Kerstin Day Peterson, "Business Telecom Systems, A guide to choosing the best technologies and services".



Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory.


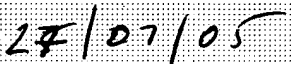
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Poltorak whose telephone number is (571)272-3840. The examiner can normally be reached Monday through Thursday from 9:00 a.m. to 4:00 p.m. and alternate Fridays from 9:00 a.m. to 3:30 p.m.

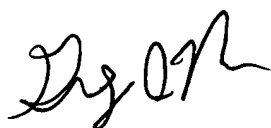
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

  
Signature  
  
  
Date

  
**GREGORY MORSE**  
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